

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 26:110. Motor carrier repair and replacement parts.

5 RELATES TO: KRS 131.110, 139.010, ~~139.050, 139.100, 139.110, 139.120, 139.140,~~
6 ~~139.200, 139.260, 139.270, 139.310, 139.330, 139.480, 139.540, 139.550, 139.560,~~ 139.590,
7 139.720

8 STATUTORY AUTHORITY: KRS 131.130, 139.710

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130 and 139.710 authorize the
10 Department of Revenue~~[Revenue Cabinet]~~ to promulgate administrative regulations for the
11 assessment, collection, refunding, administration, and enforcement of the Kentucky tax laws. This
12 administrative regulation establishes requirements and guidelines for the application of the sales
13 and use tax exemption for repair and replacement parts for the direct operation or maintenance of
14 a motor vehicle, including any towed unit, used exclusively in interstate commerce for the
15 conveyance of property or passengers for hire as provided in KRS 139.480(32).

16 Section 1. Definitions. (1) "Exclusively in interstate commerce" means the conveyance of
17 property or passengers by a motor vehicle in more than one (1) state. A motor vehicle used in the
18 conveyance of property or passengers only within the borders of this state is not used in interstate
19 commerce.

20 (2) "For hire" means a motor carrier receiving compensation for transportation of property
21 owned by others or passengers under the requirements of the Federal Motor Carrier Safety

1 Administration (FMCSA) 49 C.F.R. 325 to 399.

2 (3) "Truck Part Direct Pay Authorization" or "TP DPA" means an authorization issued by the
3 Department of Revenue~~[Revenue Cabinet]~~ that permits a taxpayer to report Kentucky sales and
4 use tax directly to the department~~[cabinet]~~ on applicable repair and replacement parts.

5 Section 2. Application Process. (1) The applicant shall complete the Application for Truck
6 Part Direct Pay Authorization, Revenue Form 51A160~~[-(October 2003)]~~.

7 (2) To qualify for the TP DPA, the applicant shall be:

8 (a) Designated as an interstate motor carrier with the Federal Motor Carrier Safety
9 Administration and the Kentucky Transportation Cabinet;

10 (b) Registered with a Kentucky sales and use tax account number or a Kentucky consumer use
11 tax account number; and

12 (c) Operating one (1) or more motor vehicles exclusively in interstate commerce.

13 (3) The department~~[cabinet]~~ shall issue qualifying applicants a TP DPA (Revenue Form
14 51A161).

15 Section 3. Exemption Procedures. The TP DPA holder shall:

16 (1) Issue a copy of the authorization to all its truck part vendors;

17 (2) Report and remit the sales or use tax to the Department of Revenue~~[Revenue Cabinet]~~ on
18 purchases of repair and replacement parts used on nonqualifying motor vehicles that the
19 purchaser's vendor would have remitted if the authorization had not been issued;

20 (3) Report and pay all taxable purchases in accordance with KRS 139.540, 139.550,~~[139.560,]~~
21 and 139.590;

22 (4) Maintain records pursuant to KRS 139.720(2); and

23 (5) File by February 15 of each year the "Truck Part Direct Pay Authorization Purchase

Report," Revenue Form 51A162[~~(October 2003)~~], to report the total tax savings from purchases of repair and replacement parts that are exempt from sales and use tax pursuant to KRS 139.480(32).

Section 4. Vendor Requirements. (1) Vendors shall be relieved of the duty to collect and pay the sales or use tax on sales of repair and replacement parts if they:

(a) Accept a copy of the purchaser's TP DPA [~~in good faith~~] pursuant to KRS 139.270; and

(b) Retain the copy in the company records pursuant to KRS 139.720(2).

(2) Vendors shall:

(a) Report sales to a TP DPA holder on Line 1, Gross Receipts, of Revenue Form 51A102, "Sales and Use Tax Return"[~~(July 2003)~~]; and

(b) Take a corresponding deduction Code 190 on the return and identify the deduction as "TP DPA Sales".

Section 5. Transfer of Authorization. (1) A TP DPA shall not be transferable upon the sale, lease, or other transfer of the business.

(2) A TP DPA holder shall notify the department[~~eabinet~~] within ten (10) days of the effective date of the sale, lease, or other transfer of the business.

Section 6. Termination. (1) The department[~~eabinet~~] shall terminate a TP DPA if the holder:

(a) Fails or ceases to be an eligible taxpayer;

(b) Fails to timely file its sales and use tax returns and timely pay any tax due; or

(c) Fails to comply with any of the provisions of this administrative regulation.

(2) The department[~~eabinet~~] shall notify a TP DPA holder of the termination by certified mail at the last known business address.

(3) Upon receipt of the notification of termination, a TP DPA holder shall notify all truck repair

1 and replacement part vendors within thirty (30) days of the date of termination.

2 (4) The effective date of the termination shall be the date of the mailing of the termination
3 notice.

4 Section 7. Protests. The denial or termination of a TP DPA may be protested pursuant to KRS
5 131.110.

6 Section 8. Forms. The forms listed herein may be inspected, copied, or obtained, subject to
7 applicable copyright law, at:

8 (1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

9 (2) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

10 (3) The department website at <http://revenue.ky.gov>.

11 ~~[Incorporation by Reference. (1) The following material is incorporated by reference:]~~

12 ~~—(a) "Sales and Use Tax Return", Form 51A102[(July 2003)];~~

13 ~~—(b) "Consumer's Use Tax Return", Form 51A113[(July 2003)];~~

14 ~~—(c) "Application for Truck Part Direct Pay Authorization", Form 51A160[(October 2003)];~~

15 ~~—(d) "Truck Part Direct Pay Authorization", Form 51A161[(October 2003)]; and~~

16 ~~—(e) "Truck Part Direct Pay Authorization (TP DPA) Purchase Report", Form 51A162[(October~~
17 ~~2003)].~~


18 ~~—(2) This material may be inspected, copied, or obtained, Subject to applicable copyright law,~~

19 ~~at Kentucky Revenue Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, or at a Kentucky~~

20 ~~Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

103 KAR 26:110

APPROVED BY AGENCY:


DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

9/12/17
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 26:110

Contact Person: Lisa Swiger

Phone Number: (502) 782-5705

Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The current version of 103 KAR 26:110 contains repealed statutory references, outdated and unnecessary forms dates, and outdated Department of Revenue address and contact information. The proposed amendment updates regulatory language to address these issues. "Revenue Cabinet" and "cabinet" are updated to "Department of Revenue" and "department"; the reference to "Good faith" in Section 4 is deleted; and references to forms and form dates no longer promulgated in a regulation are removed.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation. Repealed statutory references are removed and replaced with the updated statutory reference, outdated and unnecessary forms dates are removed and DOR contact and address information is updated.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that access the amended regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an

amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Current budgetary funds and staff will be utilized to implement the proposed amendment.

(b) On a continuing basis: There is no cost on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current budgetary funds and staff will be used to implement and enforce the proposed amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary. There is no additional cost to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): No. Tiering is not applied to this amendment as the proposed amended regulation will apply equally to those affected by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 26:110

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment only updates outdated regulatory language and information currently contained in the regulation. Repealed statutory references are removed and replaced with the updated statutory reference, outdated and unnecessary forms dates are removed, and DOR contact and address information is updated. No new revenue is generated by this amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: